California Marine Life Protection Act Initiative <u>Revised Proposed Motion by MLPA Blue Ribbon Task Force Member Meg</u> Caldwell Regarding Traditional, Non-Commercial Tribal Uses of Marine Resources in the MLPA North Coast Study Region Revised May 416, 2010

At the Marine Life Protection Act (MLPA) Blue Ribbon Task Force (BRTF) meeting on May 4, 2010, the BRTF discussed the decision-making context for tribal uses of marine resources in marine protected areas. During that discussion, BRTF member Meg Caldwell suggested a motion for possible action by the BRTF, which was provided in writing to the BRTF. is included here in full with minor changes for grammar and context. This motion will be considered by the BRTF at a meeting to be held via teleconference and webinar on Monday, May 17, 2010.

This document provides alternative language from Ms. Caldwell for consideration by the BRTF at its May 17, 2010 meeting to address shore-based versus offshore activities, marine protected area (MPA) classifications, and level of protection (LOP) issues raised at the BRTF's May 4, 2010 meeting. In addition, a preamble has been added to provide additional context for the motion and explanation of the BRTF's intent.

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California's north coast tribes and tribal communities pre-date California's statehood, and have made a significant contribution to the culture and history of California's north coast. In respect of California's north coast tribes having lived in concert with the natural environment for thousands of years, it is not the intent of the MLPA Blue Ribbon Task Force to have the Marine Life Protection Act (MLPA) adversely affect traditional, cultural, non-commercial tribal gathering activities in the MLPA North Coast Study Region. It is the BRTF's goal that through ongoing consultation with tribes, the state will be able to develop an MPA array for the north coast that will closely conform to science guidelines.

-Hence, the MLPA Blue Ribbon Task Force (BRTF) sees value in establishing tribal resource protection areas that protect traditional, non-commercial, cultural tribal gathering activities while ensuring compliance with science guidelines. According to the California Secretary for Natural Resources, the state currently lacks legal authority to allow exclusive tribal gathering activities in MPAs. Unless and until legal authority can be established for exclusive tribal gathering activities in marine protected areas (MPAs), it is understood that non-commercial gathering activities specifically authorized in tribal resource protection areas will be allowable for all recreational users.

In consideration of California Secretary for Natural Resources Snow's letter of May 3, 2010 to Ms. Kimber, and in recognition of the BRTF charge from the secretary-for natural resources to exercise its best judgment in "[resolving] policy disputes and provide direction in the face of uncertainty," and understanding the MLPA North Coast Regional Stakeholder Group (NCRSG) request for guidance on how best to proceed regarding traditional, non-commercial tribal uses of marine resources, the BRTF provides the following additional guidance for Round 2 of the north coast marine protected area planning process:

The BRTF requests that the NCRSG try, where possible and as information allows, to avoid <u>areas where</u> traditional, non-commercial, ceremonial and cultural, tribal gathering <u>activities areas occur</u> and <u>to conform</u> as closely as possible to the SAT guidelines.

The BRTF is aware, however, that it may not be possible to altogether avoid <u>areas where</u> traditional, non- commercial, <u>ceremonial and</u> cultural, tribal gathering <u>activities areas occur</u> when designing MPAs in the north coast study region. As a matter of policy, the BRTF concludes that MPAs that are otherwise intended by the NCRSG as state marine reserves, but for continued traditional, non-commercial, <u>ceremonial and</u> cultural, tribal gathering <u>activities uses</u>, should be classified as <u>tribal resource protection</u> state marine parks (SMPs) for <u>tribal resource protection</u>; where an SMP is not feasible or advisable, or the area should be <u>classified as a state marine conservation area</u> (SMCA) for tribal resource protection. To <u>maximize conformance with SAT guidelines, the NCRSG is urged to couple offshore SMRs and/or MPAs with high or moderate high levels of protection with nearshore SMPs (or SMCAs, as appropriate) that allow for shore-based, traditional, non-commercial, cultural tribal activities.</u>

As the MLPA north coast MPA planning process moves forward, the State of California NCRSG, MLPA Master Plan Science Advisory Team, MLPA Initiative staff, and California Department of Fish and Game should consult with any affected tribes to help ensure the highest possible level of protection for specific tribal resource Protection SMPs or SMCAs designed for tribal resource protection, consistent with tribal values. Such consultation should include, but not be limited to, consideration of various co-management opportunities.

The BRTF recognizes that the SAT has not been provided with sufficient information to determine a level of protection for traditional, non-commercial, cultural, tribal gathering activities. Thus, fFor the purposes of MLPA Master Plan Science Advisory Team (SAT) evaluations, MPAs designed for tribal resource protection should not be assigned a level of protection, but rather be categorized as "undetermined" until specific species and gear types can be identified. In the interest of maximizing the usefulness of SAT feedback, these MPAs should be included in Round 2 evaluations using the best information and best analysis tools readily available to the SAT. tribal resource protection MPAs should be evaluated and displayed in SAT evaluation materials as very high level of protection SMPs or SMCAs.